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INTERNATIONAL ARMS TRANSFERS, WITH PARTICULAR REFERENCE TO RESOLUTION 46/36 H OF 6 DECEMBER 1991

Working paper submitted by Argentina

I. INTRODUCTION

1. Since the end of the cold war, there have been encouraging developments for the effective application of the system of collective security envisaged in the Charter of the United Nations. However, this new climate has been accompanied by the emergence of new threats and the resurgence of old problems.

2. The existence, in various parts of the world, of weapons stockpiles that exceed the level necessary for legitimate security and defence needs, and especially the illicit transfer of such weapons often associated with destabilizing activities, is a longstanding problem that the end of the cold war was unable to resolve.

3. In this context, it is essential to adopt common, appropriate and effective criteria for controlling international arms transfers.

II. RIGHT OF SELF-DEFENCE, TRANSPARENCY AND CONFIDENCE-BUILDING MEASURES

4. Article 51 of the Charter of the United Nations recognizes the inherent right to individual and collective self-defence, which implies that States also have the right to procure or manufacture arms with which to defend themselves.

5. However, what is the limit on the acquisition of weapons for defensive purposes?

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6. If we start from the premise that States, as members of the United Nations, have a responsibility and an obligation to contribute to the process of international detente and to the strengthening of international peace and security, we can say that the limit on the acquisition of weapons for defensive purposes is determined by the need for States to make responsible, moderate use of arms transfers, taking special care to avoid excess availability and its destabilizing effects, particularly at the regional level.

7. The adoption of specific measures that reflect a commitment to the system of collective security envisaged in the Charter is a step forward in this field.

8. The establishment of a universal and non-discriminatory arms register under United Nations auspices, in the form of the Register of Conventional Arms created by General Assembly resolution 46/36, is thus, beyond doubt, one of the main achievements of recent years in the sphere of multilateral disarmament and has contributed to the promotion of transparency in military matters.

9. The provision, for the Register, of information on international arms transfers, military holdings, procurement through national production and relevant policies is also an important confidence-building measure and a practical and effective security mechanism which is relatively easy to apply; it helps to avoid misperceptions and misunderstandings while promoting a thorough and constructive dialogue that enhances mutual understanding and alerts the international community to an excessive arms build-up.

10. However, while the level of participation in the Register is encouraging, the Register will have to be expanded and consolidated over time so that it can become an effective instrument of preventive diplomacy, as suggested by the Secretary-General in his foreword to the report of the group of governmental experts on the continued functioning of the Register of Conventional Arms, submitted in 1992 (A/47/342 and Corr.1 and 3).

11. It should be mentioned that, in the same year, the Disarmament Commission recognized the importance of supplying objective information on military matters as a confidence-building measure.

III. ILLICIT TRANSFERS AND CONTROL REGIMES

12. Illicit arms transfers are one of the international community's main concerns, since they threaten both the internal security of States and regional and global stability.

13. Illicit transfers violate national laws and/or international law. States, as responsible members of the international community, must therefore participate in and encourage the functioning of systems and regimes for the control of arms transfers, whether agreed to at the multilateral, regional or subregional level or even as a result of unilateral decisions, in order to prevent the illicit arms trade.

14. As a result, existing mechanisms for the control of international arms transfers must be improved so as to prevent illicit transfers.

15. In order for the elimination of illicit arms transfers to be tackled effectively, control measures must be adopted and applied by the greatest possible number of States and it must be possible to implement them simply and economically, without impeding normal trade in materials and equipment used for legitimate purposes.

16. These measures and controls also offer the advantage of demonstrating the firm commitment made by States that adopt them to avoid not only their direct involvement in illicit arms transfers but also their involvement by omission.

17. If both the exporting State and the importing State exercise effective control over international arms transfers, they contribute to the efforts being made by the United Nations to reduce tensions, settle regional conflicts, halt the arms race and bring about disarmament.

18. In this connection, the Disarmament Commission offers an appropriate framework for exploring the possibility of harmonizing national measures and making them more effective, considering the adoption of additional measures, where necessary, and promoting cooperation in the elimination of illicit transfers.

19. This effort to arrive at a consensus on the matter can help to ensure that, in the not too distant future and in whichever forum is deemed appropriate, negotiations will be launched on a code of conduct for arms transfers as proposed on an earlier occasion.

20. The adoption of such an instrument would provide direction and a general framework for States' individual efforts to prevent illicit transfers.

21. Lastly, it should be emphasized that the control of international arms transfers, far from being seen as a means of interference in the internal affairs of a State, should be viewed in the broader context of confidence-building and transparency.